

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEBRASKA

UNION PACIFIC RAILROAD	)	
COMPANY, a Delaware	)	
corporation; and MINER	)	
ENTERPRISES, INC., a Delaware	)	
corporation,	)	
	)	
Plaintiffs,	)	8:06CV739
	)	
v.	)	
	)	
HERZOG CONTRACTING CORP., a	)	ORDER
Missouri corporation,	)	
	)	
Defendant.	)	
_____	)	

This matter is before the Court on plaintiff Miner Enterprises, Inc.'s ("Miner") motion for leave to file a sur-reply brief and motion for leave to file a separate index of evidence in opposition to defendant Herzog Contracting Corp.'s ("Herzog") motion to compel (Filing No. 106). The Court notes that it previously granted defendant Herzog's motion for leave to file a reply brief and motion for leave to file a separate index of evidence in support of its motion to compel (Filing No. 84). (See Filing No. 88.)

The Court finds that Miner is entitled to respond to any new evidence or argument which appears in defendant's reply brief and therefore the motion should be granted. However, Miner should respond only to arguments outside the scope of the initial round of briefing and must comply in all respects with NECivR 7.1. Further briefing on this motion is not desired. Accordingly,

IT IS ORDERED that plaintiff Miner Enterprises, Inc.'s motion for leave to file a sur-reply brief and motion for leave to file a separate index of evidence in opposition to Herzog's motion to compel is granted; Miner Enterprises shall have until January 30, 2008, to file its sur-reply brief.

DATED this 17th day of January, 2008.

BY THE COURT:

/s/ Lyle E. Strom

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LYLE E. STROM, Senior Judge  
United States District Court